

# EXHIBIT D

Tuesday, July 25, 2023 at 22:56:50 Pacific Daylight Time

**Subject:** Preliminary Constructions for Markman Hearing - 2/16 at 9:30 a.m. - WSOU v. Google, No. 572, 580, 584, 585

**Date:** Wednesday, February 15, 2023 at 5:47:19 PM Pacific Standard Time

**From:** Elizabeth Knuppel

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**CC:** Kristie Davis, Michael Schiller

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Counsel,

For the Markman hearing **tomorrow at 9:30 a.m.** in WSOU v. Google, No. 6:20-cv-572, 580, 584, 585, the Court provides the following preliminary constructions. The parties are welcome to argue for their originally proposed construction. However, the Court will usually not adopt a party's originally proposed construction over the preliminary construction. Instead, the Court encourages arguments that fine-tune the preliminary constructions. The Court also encourages the parties to narrow the number of claim terms they wish to argue at the hearing.

Of the below terms, please let me know which terms each side would like to argue by **tomorrow at 8:00 a.m.** Each side may email their list separately copying counsel or submit a joint list. If submitting a joint list, please indicate which party wants to argue each term. Unless the parties jointly agree on a sequence of terms for argument, the Court will decide the sequence. Also by **tomorrow at 8:00 a.m.**, please submit any slides the parties wish to use at the Markman hearing (and CC the other side). In addition, the Court will hear the two pending 101 motions tomorrow. Please let me know by 8:00 a.m. tomorrow whether the parties would like to argue those motions before or after the Markman.

To assist our court reporter (Kristie Davis, CC'd), please email her a copy of your slides, even if only a draft, as soon as your slides contain the difficult-to-transcribe words that you might articulate. When you email the court reporter, there is no need to CC the other side or the Court.

If you plan to have any younger associates argue, please introduce them when you state your appearances.

No.	Claim Term	Plaintiff's Construction	Defendant's Construction	The Court's Preliminary
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				<b>Construction</b>
1	“Internet Protocol Television (IPTV) service”  '806 Patent	Plain and ordinary meaning	“An internet service provider (ISP) service that delivers television content to subscribers over a private, managed Internet Protocol (IP) network connection”	Plain-and-ordinary meaning
2	“incrementing of a count for a stationary state associated with the set of one or more distinct signal sources at the current time”  '961 Patent, cl. 1, 11	Plain and ordinary meaning; not indefinite	Indefinite	Plain-and-ordinary meaning
3	“the set of wireless transmitters”  '961 Patent, cl. 3	Plain-and-ordinary meaning; not indefinite	Indefinite	Indefinite
4	“mobile communication device”  '697 Patent	Plain-and-ordinary meaning	“a portable device that can communicate while it is moving”	Plain-and-ordinary meaning

Thanks,  
Beth

**Elizabeth Knuppel**

Law Clerk to the Honorable Alan D Albright  
United States District Court, Western District of Texas

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